

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

TOBY G. CHAVEZ,

Applicant,

v.

CV 13-338 JB/KBM

GERMAN FRANCO, et al.,

Respondents.

ORDER

This matter is before the Court on Applicant's application under 28 U.S.C. § 2254 for writ of habeas corpus, *see* 28 U.S.C. § 2254 R. 4, and the Court having determined that the application may not be subject to summary dismissal,

IT IS THEREFORE ORDERED that the Clerk is directed to forward copies of this Order and the application to Respondent and the New Mexico Attorney General;

IT IS FURTHER ORDERED that Respondent answer the application within thirty (30) days from entry of this Order. Respondent's answer shall advise, but is not limited to, whether Applicant has exhausted his state court remedies as to the issues raised in the federal petition. In each case, Respondent shall attach to its answer copies of any pleading pertinent to the issue of exhaustion which was filed by Applicant in the sentencing court, the state district court, the state court of appeals and the state supreme court, together with copies of all memoranda filed by both parties in support of or in response to those pleadings. Respondent shall also attach to the answer copies of all state court findings and conclusions, docketing statements, and opinions issued in Applicant's

state court post-conviction or appellate proceedings. In the event Respondent denies exhaustion, Respondent shall identify the State procedures currently available to Applicant given the nature of Applicant's claims and their procedural history.

A handwritten signature in black ink, reading "Karen B. Moyn". The signature is written in a cursive, flowing style.

UNITED STATES CHIEF MAGISTRATE JUDGE